

- (1) *created or consented to the creation of the visual material; or*
- (2) *voluntarily transmitted the visual material to the actor.*
- (f) *It is an affirmative defense to prosecution under Subsection (b) or (d) that:*
 - (1) *the disclosure or promotion is made in the course of:*
 - (A) *lawful and common practices of law enforcement or medical treatment;*
 - (B) *reporting unlawful activity; or*
 - (C) *a legal proceeding, if the disclosure or promotion is permitted or required by law;*
 - (2) *the disclosure or promotion consists of visual material depicting in a public or commercial setting only a person's voluntary exposure of:*
 - (A) *the person's intimate parts; or*
 - (B) *the person engaging in sexual conduct; or*
 - (3) *the actor is an interactive computer service, as defined by 47 U.S.C. Section 230, and the disclosure or promotion consists of visual material provided by another person.*
- (g) *An offense under this section is a Class A misdemeanor.*
- (h) *If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.*

SECTION 4. (a) Chapter 98B, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Section 21.16, Penal Code, as added by this Act, applies to visual material disclosed or promoted, or threatened to be disclosed, on or after the effective date of this Act, regardless of whether the visual material was created or transmitted to the actor before, on, or after that date.

SECTION 5. This Act takes effect September 1, 2015.

Passed the Senate on April 14, 2015: Yeas 31, Nays 0; passed the House on May 26, 2015: Yeas 143, Nays 0, two present not voting.

Approved June 17, 2015.

Effective September 1, 2015.

FUNCTIONS OF THE PUBLIC UTILITY COMMISSION OF TEXAS IN RELATION TO THE ECONOMIC REGULATION OF WATER AND SEWER SERVICE

CHAPTER 853

S.B. No. 1148

AN ACT

relating to the functions of the Public Utility Commission of Texas in relation to the economic regulation of water and sewer service.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 5.315, Water Code, is amended to read as follows:

Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN TESTIMONY. In a contested case hearing delegated by the commission to the State Office of Administrative Hearings that uses prefiled written testimony, all discovery must be completed before the deadline for the submission of that testimony[~~, except for water and sewer ratemaking proceedings~~].

SECTION 2. Section 5.507, Water Code, is amended to read as follows:

Sec. 5.507. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER. The commission ~~[or the Public Utility Commission of Texas]~~ may issue an emergency order appointing a willing person to temporarily manage and operate a utility under Section 13.4132. Notice of the action is adequate if the notice is mailed or hand delivered to the last known address of the utility's headquarters.

SECTION 3. Section 13.041(d), Water Code, is amended to read as follows:

(d) *In accordance with Subchapter K-1, the [The] utility commission may issue emergency orders, with or without a hearing:*

(1) to compel a water or sewer service provider that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act; and

(2) to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if service discontinuance or serious impairment in service is imminent or has occurred.

SECTION 4. Section 13.043, Water Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) A municipally owned utility shall:

(1) disclose to any person, on request, the number of ratepayers who reside outside the corporate limits of the municipality; and

(2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(b-2) If a ratepayer has requested that a municipally owned utility keep the ratepayer's personal information confidential under Section 182.052, Utilities Code, the municipally owned utility may not disclose the address of the ratepayer under Subsection (b-1)(2).

(b-3) The municipally owned utility may not charge a fee for disclosing the information under Subsection (b-1)(1). The municipally owned utility may charge a reasonable fee for providing information under Subsection (b-1)(2). The municipally owned utility shall provide information requested under Subsection (b-1)(1) by telephone or in writing as preferred by the person making the request.

SECTION 5. Section 13.187(g-1), Water Code, is amended to read as follows:

(g-1) If the regulatory authority is the utility commission, the utility commission shall give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county. *The utility commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county.* The utility is not required to provide a formal answer or file any other formal pleading in response to the notice, and the absence of an answer does not affect an order for a hearing.

SECTION 6. Sections 13.1871(g), (h), (j), (m), and (p), Water Code, are amended to read as follows:

(g) After written notice to the utility, the utility commission may suspend the effective date of a rate change for not more than 265 ~~[205]~~ days from the proposed effective date. If the utility commission does not make a final determination on the proposed rate before the expiration of the suspension period, the proposed rate shall be considered approved. This approval is subject to the authority of the utility commission thereafter to continue a hearing in progress.

(h) The ~~265-day~~ ~~[205-day]~~ period described by Subsection (g) shall be extended by two days for each day a hearing exceeds 15 days.

(j) If the regulatory authority receives at least the number of complaints from ratepay-

ers required for the regulatory authority to set a hearing under Subsection (i), the regulatory authority may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. Except as provided by Subsection (h), the proposed rate may not be suspended for longer than:

- (1) 90 days by a local regulatory authority; or
- (2) 265 [205] days by the utility commission.

(m) The regulatory authority shall give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county. *The utility commission may delegate to an administrative law judge of the State Office of Administrative Hearings the responsibility and authority to give reasonable notice for the hearing, including notice to the governing body of each affected municipality and county.* The utility is not required to provide a formal answer or file any other formal pleading in response to the notice, and the absence of an answer does not affect an order for a hearing.

(p) A utility may put a changed rate into effect throughout the area in which the utility sought to change its rates, including an area over which the utility commission is exercising appellate or original jurisdiction, by filing a bond with the utility commission if the suspension period has been extended under Subsection (h) and the utility commission fails to make a final determination before the 266th [206th] day after the date the rate change would otherwise be effective.

SECTION 7. Sections 13.301(a) and (h), Water Code, are amended to read as follows:

(a) A utility or a water supply or sewer service corporation, on or before the 120th day before the effective date of a sale, acquisition, lease, or rental of a water or sewer system *owned by an entity* that is required by law to possess a certificate of public convenience and necessity or the effective date of a *sale or acquisition of or merger or consolidation with such an entity* [a utility or water supply or sewer service corporation], shall:

- (1) file a written application with the utility commission; and
- (2) unless public notice is waived by the utility commission for good cause shown, give public notice of the action.

(h) A sale, acquisition, lease, or rental of any water or sewer system *owned by an entity* required by law to possess a certificate of public convenience and necessity, *or a sale or acquisition of or merger or consolidation with such an entity*, that is not completed in accordance with the provisions of this section is void.

SECTION 8. Sections 13.4133(a) and (c), Water Code, are amended to read as follows:

(a) Notwithstanding the requirements of Subchapter F, the utility commission may authorize an emergency rate increase for a utility for which a person has been appointed under Section 13.4132 or for which a receiver has been appointed under Section 13.412 if the increase is necessary to ensure the provision of continuous and adequate services to the utility's customers. *The commission and utility commission shall coordinate as needed to carry out this section.*

(c) *An emergency order may be issued under this section for a term not to exceed 15 months.* The utility commission shall schedule a hearing to establish a final rate within 15 months after the date on which an emergency rate increase takes effect. The utility commission shall require the utility to provide notice of the hearing to each customer. The additional revenues collected under an emergency rate increase are subject to refund if the utility commission finds that the rate increase was larger than necessary to ensure continuous and adequate service.

SECTION 9. Chapter 13, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. EMERGENCY ORDERS

Sec. 13.451. ISSUANCE OF EMERGENCY ORDER. (a) The utility commission may issue an emergency order authorized under this chapter after providing the notice and opportunity for a hearing that the utility commission considers practicable under the cir-

cumstances or without notice or opportunity for a hearing. If the utility commission considers the provision of notice and opportunity for a hearing practicable, the utility commission shall provide the notice not later than the 10th day before the date set for the hearing.

(b) The utility commission by order or rule may delegate to the utility commission's executive director the authority to:

(1) receive applications and issue emergency orders under this subchapter; and

(2) authorize, in writing, a representative or representatives to act on the utility commission's executive director's behalf under this subchapter.

(c) Chapter 2001, Government Code, does not apply to the issuance of an emergency order under this subchapter without a hearing.

(d) A law under which the utility commission acts that requires notice of hearing or that prescribes procedures for the issuance of emergency orders does not apply to a hearing on an emergency order issued under this subchapter unless the law specifically requires notice for an emergency order. The utility commission shall give notice of the hearing as it determines is practicable under the circumstances.

(e) An emergency order issued under this subchapter does not vest any rights in a person affected by the order and the order expires according to its terms.

(f) The utility commission may adopt rules necessary to administer this subchapter.

Sec. 13.452. APPLICATION FOR EMERGENCY ORDER. *A person other than the utility commission or the staff of the utility commission who desires the issuance of an emergency order under this subchapter must submit a sworn written application to the utility commission. The application must:*

(1) describe the emergency condition or other condition justifying the issuance of the order;

(2) allege facts to support the findings required under this subchapter;

(3) estimate the dates on which the proposed order should begin and end;

(4) describe the action sought and the activity proposed to be allowed, mandated, or prohibited; and

(5) include any other statement, including who must sign the application for the order, and any information required by the utility commission.

Sec. 13.453. NOTICE OF ISSUANCE. *Notice of the issuance of an emergency order must be provided as required by utility commission rule.*

Sec. 13.454. HEARING TO AFFIRM, MODIFY, OR SET ASIDE ORDER. *(a) If the utility commission or the utility commission's executive director issues an emergency order under this subchapter without a hearing, a hearing must be held to affirm, modify, or set aside the emergency order unless the person affected by the order waives the right to a hearing. If the person does not waive the right to a hearing, the utility commission or the utility commission's executive director shall set a time and place for a hearing to be held before the utility commission or the State Office of Administrative Hearings, which must be as soon as practicable after the order is issued.*

(b) At a hearing required under Subsection (a), or within a reasonable time after the hearing, the utility commission shall affirm, modify, or set aside the emergency order.

(c) A hearing to affirm, modify, or set aside an emergency order must be conducted in accordance with Chapter 2001, Government Code, and utility commission rules. Utility commission rules relating to a hearing to affirm, modify, or set aside an emergency order must provide for presentation of evidence by the applicant, if any, under oath, presentation of rebuttal evidence under oath, and cross-examination of witnesses under oath.

Sec. 13.455. TERM OF ORDER. *An emergency order issued under this subchapter must be limited to a reasonable time as specified in the order. Except as otherwise provided by this chapter, the term of an emergency order may not exceed 180 days. An emergency order may be renewed once for a period not to exceed 180 days.*

SECTION 10. Section 5.508, Water Code, is repealed.

SECTION 11. This Act takes effect September 1, 2015.

Passed the Senate on April 30, 2015: Yeas 31, Nays 0; the Senate concurred in House amendment on May 26, 2015: Yeas 31, Nays 0; passed the House, with amendment, on May 19, 2015: Yeas 144, Nays 2, two present not voting.

Approved June 17, 2015.

Effective September 1, 2015.

COMMITMENT OF CERTAIN JUVENILES TO LOCAL POST-ADJUDICATION SECURE CORRECTIONAL FACILITIES IN CERTAIN COUNTIES AND TO THE RELEASE UNDER SUPERVISION OF THOSE JUVENILES

CHAPTER 854

S.B. No. 1149

AN ACT

relating to the commitment of certain juveniles to local post-adjudication secure correctional facilities in certain counties and to the release under supervision of those juveniles.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 51.13(c) and (d), Family Code, are amended to read as follows:

(c) A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of Section 51.12;

(2) after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a certified juvenile detention facility under Section 54.02(h); ~~or~~

(3) after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; *or*

(4) *after transfer from a post-adjudication secure correctional facility, as that term is defined by Section 54.04011.*

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 *for conduct that occurred on or after December 1, 2013*, is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

SECTION 2. Section 53.045(d), Family Code, is amended to read as follows:

(d) If the grand jury approves of the petition, the fact of approval shall be certified to the juvenile court, and the certification shall be entered in the record of the case. For the purpose of the transfer of a child to the Texas Department of Criminal Justice as provided by Section 152.00161(c) or 245.151(c), Human Resources Code, *as applicable*, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

SECTION 3. Section 54.11, Family Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (e) to read as follows:

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the